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SUBJECT: Child Labor and Forced Labor in Ecuador for DOL Reporting Requirements

REF: 09 STATE 131997; 09 QUITO 20

11. The following is Embassy Quito's response to the request for child labor and forced labor information for DOL congressional reporting requirements (Ref A).

TASKING 1/TVPRA

12. Q. Action request for tasking 1/TVPRA: Posts listed in paras 5 and 6 are requested to provide current information on forced labor and exploitive child labor in the production of goods. Please also note: if goods from your reporting country(ies) or territory(ies) appear on the current TVPRA list, you are only requested to provide information on additional goods. A. Information available to Post suggests that TVPRA list of goods produced by child labor in Ecuador remains accurate: bananas, bricks, flowers, and gold (Ref B). Post does not have information on the production of other goods using child labor. However, we note that there are concerns expressed by a credible NGO of the risk of child labor in the agricultural sector in general, and that export markets for such products should be monitored carefully.

13. In addition to requesting information on new goods produced by child labor or forced labor, PolOff asked for information regarding trends in the use of child labor for those goods already listed:

1A. Bananas: The NGO reported that the problem of child labor in bananas remains at previous levels, in their estimate, but that there have been huge advances in convincing producers to move children out of the most hazardous jobs. The banana industry in Ecuador is made up primarily of small and medium-sized producers, who have "traditional" views of the labor market and continue to use child laborers. However, the NGO source says that an industry-wide agreement to remove children from jobs that produce the most significant risks to their health and well-being has been widely adopted and appears to be helping keep young workers away from pesticides and other hazardous work conditions.

1B. Bricks: No change in previously reported trends. Children continue to work in the brick industry, which is almost entirely small, family-operated businesses. Children often work at night and in the very early morning, then attend school.

1C. Flowers: Child labor is significantly decreasing in this industry. The NGO notes that the flower industry has been "seized" with the issue of child labor and is making significant and thorough efforts to eradicate this problem in partnership with government, NGO, and private organizations. Flower businesses are

established almost entirely for export, notes the source, and businessmen are aware that a child labor problem will hurt their bottom line directly. Furthermore, she believes most of the owners in the flower industry are more 'advanced' in their views on labor in general and have no interest in employing underage workers. The NGO says it believes the child labor problem in the flower industry would likely be eliminated in 1-2 years.

¶D. Gold: As with bricks, there is no new information to report; child labor continues to be a problem in small-scale, informal mining businesses. Child labor has not been reported in larger, multinational commercial mining companies. The Ministry of Labor's Child Labor Inspectors Office told PolOff that they would like to find the resources to conduct a serious baseline study of children working in mines, especially gold mines, with the purpose of establishing a plan of action to eliminate child labor in this industry by 2012, along the lines of their plan to eliminate child labor in landfills.

TASKING 2/TDA

¶4. Answers to the questions for Tasking 2 are numbered according to the list in paragraph 21 of reftel.

2A) PREVALENCE AND SECTORAL DISTRIBUTION OF EXPLOITATIVE CHILD LABOR:

¶1. Q: In what sectors (not related to the production of goods) were

children involved in exploitive labor (such as domestic service, street vending, and/or child prostitution)? A: The majority of child laborers continue to work in the agricultural sector, particularly family-owned businesses. Children are also working in mines, landfills, the domestic service industry, street vending, prostitution, and to a lessening extent, begging.

¶2. Q: Posts are requested to determine if the government collected or published data on exploitive child labor during the period, and if so, whether the government would provide the data set to DOL for further analysis. A: The GOE published results of a 2006 census of child labor in numerous reports, and has been using those numbers for baseline statistics. Data and statistical information on inspections, inspectors, training and other information is available on the GOE's measurements website at <http://www.sigob.gov.ec/metas/main/consulta/default.asp>

Several of the measures tracked in those pages are broken down to the provincial level. The Ministry of Economics and Social Inclusion and the Ministry of Labor both use that website to update information on the national plans of action to combat child labor and trafficking in persons.

2B) LAWS AND REGULATIONS:

¶1. Q. What new laws or regulations were enacted in regard to exploitive child labor over the past year? If applicable, were the changes improvements in the legal and regulatory framework? A. There have been no new regulations or laws on child labor passed during the reporting period.

¶2. Q. Based on the standards in paras 27 and 28, was the country/territory's legal and regulatory framework adequate for addressing exploitive child labor? Examples of indicators of an inadequate framework include instances in which children have been found working in hazardous conditions, but the sector in which they were working is exempted from minimum age laws; cases in which boys are being exploited as prostitutes, but the law only prohibits female prostitution; or cases in which there are prohibitions against exploitive child labor, but penalties are too weak to serve as deterrents. A. The legal and regulatory framework in Ecuador is generally adequate to address the worst forms of child labor, although NGOs note that there is insufficient interest on the part of judges to appropriately sentence employers for exploitative child labor practices.

2C) Section I: Hazardous Child Labor and forced child labor:

11. Q. What agency or agencies was/were responsible for the enforcement of laws relating to hazardous child labor? A. The Ministry of Labor has an office of Child Labor that inspects workplaces around the country for child labor offenses. The National Police have a specialized unit for crimes against children and adolescents (DINAPEN) who rescue victims, gather evidence, and arrest the perpetrators of the worst forms of child labor and child trafficking. The Ministry of Economic and Social Inclusion's National Institute of Children and Families (INFA) may also receive reports of child labor, and provides protective services. The office of the Prosecutor receives cases and brings them to trial

12. Q. If multiple agencies were responsible for enforcement, were there mechanisms for exchanging information? Assess their effectiveness. A. According to the prosecutor for Pichincha province (one of the most affected by child labor); an NGO, and the police unit dedicated to investigating crimes against children, cooperation across GOE agencies is generally very good. Police and prosecutors work together closely to rescue and convict violators, and ensure the victims are receiving appropriate medical, psychological and social services care.

13. Q. Did the country/territory maintain a mechanism for making complaints about hazardous and forced child labor violations? If so, how many complaints were received in the reporting period? A. Complaints or reports of hazardous (and forced child) labor can be filed through a number of agencies and hotlines. They can be presented in person, over the phone, or in many cases by email. DINAPEN, the Ministry of Labor's Child Labor office, INFA, and local Councils for Children and Adolescents all receive complaints about the mistreatment of children, including hazardous child labor. Post does not have consolidated information on the number of complaints made to each agency.

14. Q. What amount of funding was provided to agencies responsible

for inspections? Was this amount adequate? Did inspectors have sufficient office facilities, transportation, fuel, and other necessities to carry out inspections? A. The Ministry of Labor's Office of Child Labor Inspections had a budget of US\$266,342 in calendar year 2009, according to the Ministry's website. This budget was insufficient to permit inspectors in all 24 provinces to adequately carry out their duties, despite the increased number of inspections in the last year. Inspectors in several provinces do not have dedicated vehicles, nor sufficient funds for fuel or other means of transportation.

15. Q. How many inspectors did the government employ? Was the number of inspectors adequate? A. The Ministry of Labor's Child Labor Inspections Office currently employs 29 inspectors. While this is an increase of two inspectors over last year, the office would be able to conduct additional inspections if it had more staff.

16. Q. How many inspections involving child labor were carried out? If possible, please provide breakdown of complaint-driven versus random, government-initiated inspections. Were inspections carried out in sectors in which children work? Was the number of inspections adequate? A. The office carried out 3,992 inspections for child labor violations in 2009, relative to 3,089 inspections in 2008 and 2586 in 2007. These inspections were carried out based on a combination of government-initiated and complaint driven investigations. The office does not maintain statistics on the breakdown of why an inspection occurred.

17. Q. How many children were removed/assisted as a result of inspections? Were these children actually provided or referred for services as a result (as opposed to simply fired)? A. According to Ministry of Labor statistics, 2056 children were rescued as a result of the inspections. Children and the circumstances of each case were evaluated to determine the needs of the child. Services provided to children included medical, psychological, educational, living and counseling opportunities. The GOE works with several NGOs to provide these services in addition to the ones the government fund. Particular emphasis is placed on educating families and putting children back into school at the appropriate levels, with accelerated programs as needed.

¶8. Q. How many child labor cases or "prosecutions" were opened? A. Due to changes in the organization of the Ministry of Labor as it was merged with another government agency, the Office of Child Labor Inspections does not have data on how many employers were sanctioned last year.

¶9. Q. How many child labor cases were closed or resolved? A. A total of 2,056 children were rescued. Data on sanctions in 2009 is not yet available.

¶10. Q. How many violations were found or "convictions" reached? A. Data on sanctions for 2009 is not yet available. One credible NGO reports that some families were fined for putting their children into exploitative labor conditions, and that egregious cases were reported to the police, who arrested the perpetrators. However, the source did not have data on the numbers of such cases.

¶11. Q. What is the average length of time it took to resolve child labor cases? A. Data on sanctions is not available.

¶12. Q. In cases in which violations were found, were penalties actually applied, either through fines paid or jail sentence served? Did such sentences meet penalties established in the law?

¶A. Anecdotal evidence from a credible NGO says that some cases were met with fines and criminal sanctions, but data on 2009 penalties is not yet available.

¶13. Q. Did the experience regarding questions 7 through 10 above reflect a commitment to combat exploitive child labor? A. The Inspections Office lacks resources, and the reorganization of government offices makes it difficult to track sanctions. In addition, only the most egregious cases of exploitative child labor receive the attention of judicial authorities. However, the Government is committed to rescuing children and has made "restoring the rights of the child" a centerpiece of their efforts to combat child labor. Their success in rescuing children is commendable, although more could be done with additional resources. We do not have sufficient data to evaluate their efforts to sanction employers at this time.

¶14. Q. Did government offer any training for investigators or others responsible for enforcement? If so, what (if any) impact have these trainings had? A. Forty government inspectors received training during the year, and an additional 861 people from municipal and local governments, businessmen, educators and others received some kind of training on child labor. The Ministry of Labor and NGOs report great success in efforts to educate municipalities on the dangers of child labor in landfills. As a result, several municipalities have built fences around landfills, placed locks on gates, and generally worked to make landfills less accessible to children.

2C) Section II: Forced Child Labor (repeat of questions 1-14 above): Post has heard credible reports from an NGO of some forced child labor in Ecuador on some family farms and, for an increasingly small number of children, in begging and in domestic service. However, the source said that it was "extremely rare" in Ecuador and, in her estimation, the number of children forced to beg through threats or coercion is small and shrinking. Post has little credible information on the status of children in the domestic service industry. The Ministry of Labor and the Ministry of Economic and Social Inclusion both note that forced child labor is not a significant problem in Ecuador relative to exploitative labor or CSEC, although there are related cases of abuse in some family-owned businesses, particularly on family farms and in some other family businesses. Enforcement mechanisms, reporting of complaints, and the legal remedies are all the same as those for crimes against children listed in Section 2D below.

2D) INSTITUTIONAL MECHANISMS FOR EFFECTIVE ENFORCEMENT- child trafficking, commercial sexual exploitation of children, use of children in illicit activities: Q. Because agencies responsible for enforcement of other worst forms of child labor are usually police units, Ministries of Justice or related Ministries rather than labor inspectorates, Posts are requested to answer questions 1-13 below for child trafficking; commercial sexual exploitation of

children

(CSEC) - such as prostitution, pornography, etc.; and the use of children in illicit activities. Posts are requested to respond with three distinct sections (i.e., Post should answer all questions one time for "child trafficking," one time for "CSEC," and one time for "the use of children in illicit activities (use of children).") Each section should be entitled as follows and include responses to each question: "2D, Section I: Child trafficking," responses 1-13; "2D, Section II: Commercial Sexual Exploitation of Children," responses 1-13, and "2D, Section III: Use of Children in Illicit Activities," responses 1-13.

1A. NOTE FROM POST: The GOE does not differentiate resources used to combat different kinds of child trafficking as required by the report instructions. We are unable to break down the questions into three different sections, and the answers below apply to child trafficking, CSEC, and use of children in illicit activities.

11. Q. Did the country/territory have agencies or personnel dedicated to enforcement of child trafficking/CSEC/use of children in illicit activities? How many investigators/social workers/dedicated police officers did the government employ to conduct investigations? If there were no dedicated agencies or personnel, provide an estimate of the number of people who were responsible for such investigations. Was the number of investigators adequate? A. The National Police have a unit specializing in crimes against children and adolescents (DINAPEN) charged with investigating reports of abuse, sexual exploitation, child sex tourism, child smuggling, kidnapping, illegal confinement, disappearance, exploitative and forced child labor, use of children in the drug trade, and abandoned children. DINAPEN has approximately 500 police officers. The Ministry of Social and Economic Inclusion's Institute of Children and Families (INFA) has a unit for "Special Protection" to work with children who are victims of extreme abuse, trafficking, exploitative child labor, and sexual abuse of all types. The unit runs 43 Protection Centers staffed by social workers, doctors, psychologists, and educators. There are approximately 12 such staff members in each of the 43 centers. Due to the special nature of the crime, victims of CSEC were provided special assistance by the NGO Our Youth Foundation (Fundaci????n Nuestros Jovenes), which runs special shelters for these victims, in addition to their work with other trafficking victims. In addition, the police have units dedicated to victims and witness protection in each province.

12. Q. How much funding was provided to agencies responsible for investigating child trafficking/CSEC/use of children in illicit activities? Was this amount adequate? Did investigators have sufficient office facilities, transportation, fuel, and other necessities to carry out investigations? A. DINAPEN's budget was not available. However, the Narcotics Affairs Section reports that they have assisted DINAPEN with basic office supplies, computers, and cameras to take photographs of crime scenes. The implication is that DINAPEN is underfunded.

13. Q. Did the country/territory maintain a hotline or other mechanism for reporting child trafficking/CSEC/use of children in illicit activities violations? If so, how many complaints were received in the reporting period? A. Complaints or reports of mistreatment of children, including all criminal activity relating to children, can be reported in person, by mail, telephone hotlines, and by email to each canton or municipal Council for Children and Adolescents, DINAPEN, and INFA, in addition to hotlines maintained by the national Ombudsman for any crimes against human rights. National statistics on the number of complaints by type are not available.

14. Q. How many investigations were opened in regard to child trafficking/CSEC/use of children in illicit activities? Was the number of investigations adequate? A. National statistics on these specific crimes against children are not available.

15. Q. How many children were rescued as a result? A. Our Youth Foundation reports that they have assisted 69 victims of trafficking from cases in 2008 and 2009. INFA's Protection Centers have assisted more than 10,000 children, but INFA's Director of the

Special Protection Unit notes that 7 of 10 cases there are cases of abuse. IFNA does not maintain specific statistics of the crimes against the children their centers protect.

¶16. Q. How many arrests were made or other kinds of prosecutions carried out? A. DINAPEN opened 25 investigations in 2009 and detained 17 suspects. Conviction information is not yet available.

¶17. Q. How many cases were closed or resolved? A. Information not available.

¶18. Q. How many convictions? A. Information not available.

¶19. Q. Did sentences imposed meet standards established in the legal framework? A. Information not available.

¶110. Q. Were sentences imposed actually served? A. Information not available.

¶111. Q. What is the average length of time it takes to resolve cases of child trafficking/CSEC/use of children in illicit activities? A. The province of Pichincha's prosecutor for trafficking in persons cases noted that some cases may take three or more years to resolve, citing in particular a case of CSEC involving a 15 year old girl that began in 2006. The case was completed in December 2009, when the trafficker was sentenced to eight years imprisonment. However, she noted that changes to the penal code and the Constitution require that cases be resolved within a year, or the perpetrator cannot be held in preventive detention.

¶112. Q. Did the government offer any training for investigators or others responsible for enforcement of child trafficking/CSEC/use of children in illicit activities? If so, what was the impact (if any) of these trainings? A. The government regularly trains groups in the area of trafficking in persons and the restitution of the rights of the child, including police, prosecutors, teachers, municipal authorities and others, as part of their ongoing efforts to combat all forms of trafficking. Since 2005, particular emphasis has been placed on helping educate families on the dangers of trafficking in an effort to keep heads of household from allowing their children to participate in the annual Christmas begging activities or from letting their children leave the country to work. Anecdotal reports suggest that the efforts to reduce begging have been enormously successful, while emigration for work purposes continues. The NGO Desarrollo y Autogesti????n (DyA) estimates that 2500 children have been removed from begging in Quito alone.

¶113. Q. If the country/territory experienced armed conflict during the reporting period or in the recent past involving the use of

child soldiers, what actions were taken to penalize those responsible? Were these actions adequate or meaningful given the situation? A. There are no reports of child soldiers in Ecuador.

2E) GOVERNMENT POLICIES ON CHILD LABOR:

¶1. Q. Did the government have a policy or plan that specifically addresses exploitive child labor? Please describe. A. The GOE has a specific Program for the Eradication of Child Labor (PETI), which is led by the Ministry of Labor, but includes offices and programs from the Ministry of Education, Ministry of Economic and Social Inclusion, and a host of other government agencies. PETI involves the national government, employer associations, employee organizations, and non-governmental organizations with a stated goal of defining and implementing actions to prevent and eradicate child labor in Ecuador under the principle of shared responsibility between the government and society. The program is further supported by the Central Bank's Young Worker program (Muchacho Trabajador) to educate youth about labor laws and their rights, and additional funding from private sector donors. The current goal of PETI is to eliminate child labor in landfills. The Ministry of Labor reports that their baseline survey indicated that just over 2000 children were involved in this effort. Today, more than 2000 children have been removed from landfill work, but other children have started to take their place. MOL is currently working closely with municipalities to close off and patrol

landfills to prevent additional children from entering the trade, and reports that child labor in landfills has been eradicated in 49 of 60 cantons. MOL intends to eliminate this form of hazardous child labor in 2010.

12. Q. Did the country/territory incorporate exploitive child labor specifically as an issue to be addressed in poverty reduction, development, educational or other social policies, such as Poverty Reduction Strategy Papers, etc? Please describe. A. In addition to the PETI program described above, the GOE continues to work on a Program for the Schooling and Protection of Child Workers as part of its ongoing efforts to provide restitution of rights for exploited children. The program is designed to get children back into school. A similar program is also run by the NGO DyA, which is transferring the knowledge and training from their accelerated learning programs to local municipalities. The Ministry of Labor also hosted an "Ecuador Free of Child Labor" program in June 2009 to generate more public awareness of the problem. Ecuador's Social Agenda 2007-2010, part of the National Development Plan, established goals related to fighting child labor, which were 90% completed, with the worst forms of child labor as a priority.

13. Q. Did the government provide funding to the plans described above? Please describe the amount and whether it was sufficient to carry out the planned activities. A. The GOE gave US\$266,342 in calendar year 2009 to the Child Labor Inspectors Office, which has the primary responsibility of funding the PETI program. Budget information from the other offices that support the effort, including the Central Bank's Young Workers program, was not available.

14. Q. Did the government provide non-monetary support to child labor plans? Please describe. A. Government-owned radio and television stations regularly broadcast messages in support of the PETI and Young Workers programs, in addition to running spots warning of the dangers of trafficking. Government offices and spaces, including schools, were regularly made available to programs designed to combat trafficking and child labor. DINAPEN and provincial prosecutors, for example, work with local schools to educate children on the dangers of CSEC and moving across borders in search of work.

15. Q. Provide any additional information about the status and effectiveness of the government's policies or plans during the reporting period in regard to exploitive child labor. A. The GOE made great strides in combating child labor in landfills, although the work is not yet complete. (See answer to 2E.1) In addition, INFA has collaborated with NGOs and other government agencies, and raised awareness with the public, to significantly reduce child begging over Christmas. Some reports estimate that child begging during the holidays fell 90% between 2005 and 2009. In addition, the GOE and local flower industry have worked to reduce the incidence of child labor in the flower industry, although statistics are not available.

16. Q. Did the government participate in any commissions or task forces regarding exploitive child labor? Was the commission active

and/or effective? A. A tripartite child labor task force (The National Council to Eradicate Child Labor) includes representatives from labor organizations, businesses and government works to implement ILO norms and conventions on child labor. Credible NGOs say that the council is ineffective; the meetings produce agreements that are not transmitted back to unions or commercial organizations. UNICEF also established a national Council on Children and Adolescents as an umbrella to the local councils to protect children. However, the two organizations apparently do not work well together.

17. Q. Did the government sign a bilateral, regional or international agreement to combat trafficking? A. The GOE ratified ILO Convention 182 on the Worst Forms of Child Labor and uses the convention as the basis for setting goals to eradicate child labor.

2F) SOCIAL PROGRAMS TO ELIMINATE OR PREVENT CHILD LABOR:

¶1. A. Did the government implement any programs specifically to address the worst forms of child labor? Please describe. A. The GOE's PETI efforts described in the previous section are designed to be a holistic effort that identifies areas of exploitive child labor, removes the victims, and provides the victims with the social, psychological, and educational programs needed to resume their childhood. In addition, INFA's Protection Centers manage cases on a long-term basis to ensure that the victims do not become victims again. INFA works very closely with families, especially in areas where children are often expected to help support their families, to educate parents and community leaders on the importance of keeping children out of work and in the schools.

¶2. Q. Did the country/territory incorporate child labor specifically as an issue to be addressed in poverty reduction, development, educational or other social programs, such as conditional cash transfer programs or eligibility for school meals, etc? Please describe. A. In addition to the programs listed above, the GOE eliminated the standard \$25 school fee in 2007, and also made books and uniforms free, which helped remove a disincentive to education. One reason for the elimination of the school fee was that parents were sending children to work because they could not afford school fees and associated costs. The conditional cash transfer program implemented by the GOE called the "Human Development Bond" is targeted to households with children aged 0-16 among the poorest 40% of the population, which are eligible to receive a conditional cash transfer, dependent upon proof of school enrollment for children between the ages five and 16, among other requirements. Under this program, recipients must certify when requested, that their children are attending school and have been taken to medical check-ups. If families do not present the requested documents in 45 days, they are removed from the program.

¶3. Q. Did the government provide funding to the programs described above? Please describe amount and whether it was sufficient to carry out the planned activities. A. The programs described above are all government funded. In addition, upon taking office in January 2007, the Correa Administration almost immediately doubled the human development bond monthly payment from \$15 to \$30 per family. In July 2009, this bond was increased again to \$35 per family. The human development bond administered a budget of \$384 million in 2007, which increased to \$430 million in 2008 and to \$506 million in 2009.

¶4. Q. Did the government provide non-monetary support to child labor programs? Please describe. A. Government-owned radio and television stations regularly broadcast messages in support of the PETI and Young Workers programs, in addition to running spots warning of the dangers of trafficking. Government offices and spaces, including schools, were regularly made available to programs designed to combat trafficking and child labor. DINAPEN and provincial prosecutors, for example, work with local schools to educate children on the dangers of CSEC and moving across borders in search of work.

¶5. Q. Provide any additional information about the status and effectiveness of the government's activities during the reporting period in relation to the programs described above. If the programs involved government provision of social services to children at risk of or involved in exploitive child labor, please describe and assess the effectiveness of these services. A. The government removed more than 2000 children from hazardous or exploitive labor

conditions, provided those children with social services, and ran public campaigns to educate parents and employers about child labor. The GOE coordinates with public, private, and non-governmental institutions to combat the problem. The current programs appear to be effective for the resources the agencies have at their disposal, although additional funding would help expand the programs. In addition, the GOE suffers from a lack of baseline data on children in some hazardous trades, such as mining, and information on the sanctions against those found violating the laws.

¶6. Q. If the government signed one or more bilateral, regional or international agreement/s to combat trafficking, what steps did it

take to implement such agreement/s? Did the agreement/s result in tangible improvements? If so, please describe. A. No new trafficking agreements were signed in 2009.

2G) CONTINUAL PROGRESS:

1. Q. Considering the information provided to the questions above, please provide an assessment of whether, overall, the government made progress in regard to combating exploitive child labor during the reporting period. In making this assessment, please indicate whether there has been an increase or decrease from previous years in inspections/investigations, prosecutions, and convictions; funding for child labor elimination policies and programs; and any other relevant indicators of government commitment. A. Inspections by the Child Labor Inspections Office went up from 3089 in 2008 to 3992 in 2009, but fewer children were removed from the workplace as a result of those inspections, 2264 in 2008 v. 2056 in 2009. The budget for the office was reduced from \$462,000 in 2008 to \$261,000 in 2009, reportedly due to problems in the overall GOE budget and with the Ministry of Labor's reorganization in 2009. However, the GOE has demonstrated excellent success in reducing child begging over the last three years, and with providing services and the restitution of rights to children. Post does not have sufficient data to evaluate convictions or sanctions at this time.

HODGES